



U.S. Department of Justice

Office of the United States Trustee

Districts of Kansas, New Mexico
and Oklahoma

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Wichita, Kansas 67202

316/269-6637
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TO: Bankruptcy Attorneys
District of Kansas

FROM: Joyce Owen *jo.*
Assistant U.S. Trustee

RE: **Interrogatories and Affidavit in Lieu of Appearance at Section 341 Hearings**

DATE: April 9, 2004

Sec. 343 requires that "the debtor shall appear and submit to examination under oath at the meeting of creditors under Sec. 341(a)." Under three specific situations, the debtor may file interrogatories in lieu of appearance at the 341 hearing without objection from our office: a written statement submitted by the debtor's doctor that the debtor is medically unable to attend the hearing, incarceration of the debtor, or the debtor is overseas in the military. These very narrow exceptions are supported by case law.

As we are implementing the debtor identity requirements, the question has arisen regarding how we can verify the debtor's identity and social security number when interrogatories are allowed. The affidavit requires the same notary who notarizes the interrogatories, also to verify identity with a picture ID, review documentation of the social security number, and attach a copy of the social security documentation that was reviewed.

Attached are copies of the standard interrogatories, and the new affidavit form. These interrogatories cover the basic questions every debtor should answer. However, if the trustees have additional questions in light of the specific facts of a case, they will amend the form to ask for any information they need to fulfill their responsibilities.

Please submit the original documents to the case trustee, with a copy to the United States Trustee. Please do not file the interrogatories or affidavit with the Clerk of the Bankruptcy Court.

I hope you find this information useful in your practice.

jo/tm
Enclosure

**IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF KANSAS**

In Re:)	Case No.
)	Chapter 7
)	
_____)	

**DEBTOR'S INTERROGATORIES IN LIEU
OF ATTENDANCE AT SECTION 341 MEETING OF CREDITORS**

The undersigned being first duly sworn upon her/his oath, states and alleges that the answers to the following interrogatories are true and correct to the best of her/his knowledge and belief, that they are submitted as her/his sworn testimony in lieu of her/his personal appearance at the first meeting of creditors in the above captioned bankruptcy, and that he/she understands that the Trustee may have additional questions and, if so, he/she has a duty to answer them.

QUESTION 1: State your full name, social security number and current address. **(This document will not be filed with the court. To the extent the contents of the document must be disclosed to third parties, private information such as the debtor's social security number, will be redacted.)**

ANSWER:

QUESTION 2: Do you understand that you are under oath?

ANSWER:

QUESTION 3: Have you read the Bankruptcy Information Sheet provided by the United States Trustee?

ANSWER:

QUESTION 4: Did you sign the Petition, Schedules, Statement of Financial Affairs, Statement of Current Monthly Income and Means Test Calculation, and related documents you filed with the court?

ANSWER:

QUESTION 5: Did you read the Petition, Schedules, Statement of Financial Affairs, Statement of Current Monthly Income and Means Test Calculation, and related documents before you signed them?

ANSWER:

QUESTION 6: Are you personally familiar with the information contained in the Petition, Schedules, Statement of Financial Affairs, Statement of Current Monthly Income and Means Test Calculation, and related documents?

ANSWER:

QUESTION 7: To the best of your knowledge, is the information contained in the Petition, Schedules, Statement of Financial Affairs, Statement of Current Monthly Income and Means Test Calculation, and related documents true and correct?

ANSWER:

QUESTION 8: Are there any errors or omissions to bring to the trustee's or court's attention at this time?

ANSWER:

QUESTION 9: Are all of your assets identified on the Schedules?

ANSWER:

QUESTION 10: Have you listed all of your creditors on the Schedules?

ANSWER:

QUESTION 11: Have you filed bankruptcy before? (If yes, state the case number, when filed, what location and whether or not a discharge was granted.)

ANSWER:

QUESTION 12: What is the address of your current employer?

ANSWER:

QUESTION 13: Is the copy of the tax return you provided to the trustee a true copy of the most recent tax return you filed?

ANSWER:

QUESTION 14: Do you have a domestic support obligation? (If yes, please identify the claimant's name, address, and telephone number. Also, state whether or not you are current on your post-petition domestic support obligations.)

ANSWER:

QUESTION 15: Have you filed all of your tax returns for the past four years?

ANSWER:

QUESTION 16: Did you or are you entitled to receive a federal, state, or local tax refund from the most recent tax year? If yes, please provide the amount of the refund that you received or to which you were entitled.

ANSWER:

QUESTION 17: Do you anticipate that you will be entitled to receive a federal, state, or local tax refund from the current tax year? If yes, please provide the anticipated amount of the refund.

ANSWER:

QUESTION 18: Do you anticipate receiving an inheritance, life insurance payment, or interest under a trust during the next 180 days? If yes, please state the anticipated property or dollar amount you will receive.

ANSWER:

QUESTION 19: If you do receive any inheritance, life insurance payment, or interest under a trust during the 180 days following the filing of your case, will you report it to your trustee?

ANSWER:

QUESTION 20: Please identify any person or company to whom you paid a cumulative total of more than \$600 within ninety days before filing your Chapter 7 petition.

ANSWER:

QUESTION 21: Have you listed all jointly owned property in your bankruptcy and identified the joint owner by name and address?

ANSWER:

QUESTION 22: Does anyone owe you any money? If so, please provide that person's name, address, and the amount that you are owed.

ANSWER:

QUESTION 23: Have you sued anyone during the past year, or are you currently suing anyone? If yes, please provide the name of the defendant, the court and case number for the action, and the amount of the demand and/or recovery.

ANSWER:

QUESTION 24: Have you been involved in any incident that might give you the right to sue another party (for example, you have medical expenses arising from a car accident or an adverse reaction to a drug, or you suffered some other personal injury or property damage)?

ANSWER:

QUESTION 25: Does any real estate you own contain a mobile, modular or manufactured home, or is it a duplex or contain rental property?

ANSWER:

QUESTION 26: Personal appearance by all debtors is required at the U.S.C. §341 creditors meeting. Non-appearance is acceptable if the debtor is in the military, incarcerated or seriously ill (medical conditions require doctor's statement). What is your reason for non appearance?

ANSWER:

DEBTOR

STATE OF)
) SS:
_____COUNTY)

_____, of lawful age, being first duly sworn, on his/her oath states:

That he/she is the debtor above-named; that he/she has read the above and foregoing Interrogatories in Lieu of the §341 meeting, and knows the contents therein, and that all the statements therein made are true and correct.

Subscribed and sworn to before me this ____day of _____, _____

NOTARY PUBLIC

My appointment Expires:

Approved:

By _____
INTERIM TRUSTEE

AFFIDAVIT REGARDING DEBTOR IDENTIFICATION

(For use when debtor/debtors do not appear)

STATE OF KANSAS)
)ss.:
COUNTY OF _____)

I swear as follows:

- 1) My name is : _____
(Print or type)
- 2) My address is: _____

- 3) The photo identification I have provided to prove my identity is as follows:

(Please complete blanks **OR** attach copies)

_____ Drivers License, (*State & number*) _____
_____ State Identification (*State & number*) _____
_____ Passport (*Country, number, Expiration Date*) _____
_____ Military identification (*branch & ID number*) _____
_____ Legal resident alien card (*number*) _____
_____ Other (*Describe, attach copy*) _____

- 4) My social security number is: ____ - ____ - ____:
- 5) The proof of social security number I have provided is as follows:
(Please attach a copy if available)

_____ social security card
_____ W2 form
_____ Recent payroll earnings statement
_____ employers health card
_____ other (*document which shows name and social security number*)

I swear under penalty of perjury that all of the above is true and correct.

Signature

Subscribed and sworn to before me
this _____ day of _____, _____.

Notary Public

(Please return this form to the Chapter 7 or Chapter 13 trustee assigned in this case.)

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS

In re)
) Case No.
)
)
)
)
 Debtor(s).)

CONSENT TO FILING

The undersigned hereby declares, under penalty of perjury, the following:

1. I am the spouse of _____ (“Joint Debtor”), the joint debtor in the above-captioned bankruptcy.
2. Joint Debtor is aware of and has consented to the filing of a petition for relief under Chapter 7 of title 11 of the United States Code, 11 U.S.C. 101, *et seq.*, by or on his behalf.
3. Joint Debtor is on active duty in the military, Joint Debtor has been deployed or mobilized, and that, as a result thereof, Joint Debtor is unable to attend the § 341 Meeting of Creditors.
4. Attached hereto is proof of Joint Debtor’s identity and Social Security number.

DATED: _____

STATE OF)
) ss
COUNTY OF)

SUBSCRIBED AND SWORN this ____ day of _____, 200____.

Notary Public

My commission expires: